

Status of Human Rights in Cuba for the 44th Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Cuba (Cuba) for the 44th session of the Universal Periodic Review (UPR).

Background

2. Cuba is an island country located in the Caribbean.¹ Cuba has an estimated population of 11 million people.² The majority of the population is Christian with approximately 58% of the population identifying as Christian, 17% belonging to a folk religion, and 23% belonging to no religion.³ Despite the country being predominantly Christian, Cuba is ranked as the 27th worst country for Christians to live in.⁴ This ranking primarily stems from the fact that the communist government “has historically aimed to repress religion and reduce the church’s influence.”⁵

3. Cuba’s previous review was on May 1, 2018.⁶ As a result of the review, Cuba received 339 recommendations, 224 of which Cuba accepted.⁷ One recommendation that was made by Mozambique, and supported by Cuba, was that the government “[c]ontinue guaranteeing the right of everyone to freedom of worship and not to profess any religion, in accordance with the Constitution.”⁸ It was also recommended by Honduras, and supported by Cuba, that the government “[r]edouble efforts to guarantee access to sexual education and reproductive health.”⁹

Legal Framework

Religious Persecution

4. Under Article 15 of the Constitution of Cuba, “[t]he State recognizes, respects, and guarantees religious liberty. The Republic of Cuba is secular. In the Republic of Cuba, the religious institutions and fraternal associations are separate from the State and they all have the same rights and duties. Distinct beliefs and religions enjoy equal consideration.”¹⁰ Additionally, under Article 57, “[a]ny person has the right to profess or not profess their religious beliefs, to change them, and to practice the religion of their choice with the required respect to other beliefs and in accordance with the law.”¹¹

5. Although Article 15 guarantees religious liberty, under Article 208 (1), Chapter VIII on Associations, Meetings and Unlawful Detentions of the Penal Code, individuals who belong to “an association that is not listed in the appropriate registry” are punished with “deprivation of their freedom for a period of one to three months.”¹² Further, Article 209 prohibits participating in events held by associations that are not registered with a punishment of “deprivation of freedom for a period of one to three months.”¹³

6. Additionally, the Office of Religious Affairs of the Central Committee of the Communist Party is responsible for approving or denying foreign visitors, construction and repair of churches, granting permits for religious organizations to perform religious services in public, or the ability to import religious texts.¹⁴

7. Cuba is a party to the ICCPR.¹⁵ Under Article 18 of the ICCPR:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.¹⁶

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.¹⁷

Abortion

8. Under Article 46 of the Constitution of Cuba, “[a]ll citizens have the right to life.”¹⁸ Additionally, under Article 86, “[t]he State, society, and families grant special protection to children and adolescents in order to guarantee their harmonic and holistic development, keeping their best interests in mind in the decisions and actions that concern them.”¹⁹

9. Moreover, under Article 43 of the Constitution:

The State encourages the holistic development of women and their full social participation. It ensures the exercise of their sexual and reproductive rights, protects them from gender-based violence in all of its forms and in all spaces, and creates the institutional and legal mechanisms to do so.²⁰

10. In Cuba, abortion is regulated by the Ministry of Public Health.²¹ Under the guidelines issued by the Ministry, abortion is available on demand up until the twelfth week of pregnancy.²² After the twelfth week, abortion is only permitted to save the life of the mother.²³ Further, abortions after the twelfth week require authorization by a hospital commission for voluntary termination of pregnancy.²⁴

11. As a party to the Convention on the Rights of the Child (CRC),²⁵ Cuba is required to protect all human life, including children who have “the inherent right to life” and, as such, is also required to “ensure to the maximum extent possible the survival and development of the child.”²⁶

12. Additionally, under Article 6 of the ICCPR, “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”²⁷ Cuba also holds a responsibility to uphold pro-life principles enshrined in other international agreements such as the UN Charter, Universal Declaration of human Rights (UDHR) and the 1994 Cairo Conference on Population and Development.

Religious Persecution

13. Since Cuba’s last UPR, Cuba has adopted a new Constitution which states that “[t]he State recognizes, respects, and guarantees religious liberty.”²⁸ However, Cuba has failed to deliver on this guarantee. In Cuba, Christians and church leaders who speak out against

corruption and the government are arrested and imprisoned.²⁹ Furthermore, “churches in Cuba face unrelenting pressure from the government, which remains committed to communism’s atheistic ideology and views churches as a threat to the revolution begun by Che Guevara and Fidel Castro in the 1950s.”³⁰

14. In order to reduce the influence of religion in Cuba, the government refuses “to register new churches or allow them to buy or use premises to meet legally. This forces many believers to meet illegally in unregistered house churches – if caught, they can then be fined, have their property confiscated or have their church shut down.”³¹ According to a Christian pastor in Cuba, “[w]e meet in my house’s garage and homes around different neighbourhoods because we do not have a building, not even the possibility of legally registering our church.”³² His experience is quite common in Cuba. In fact, Christian Solidarity Worldwide reported that, in 2022, there were “657 documented violations of freedom of religion or belief.”³³

15. The government also restricts the activity of religious groups through the Cuban Council of Churches (CIC).³⁴ The CIC is governed by the Central Committee of the Communist Party. The CIC “controls all official religious activity on the island, and silences free evangelical churches that do not agree with its policies.”³⁵ Churches that are not part of the CIC lack any legal protection.³⁶ Increasingly, churches are deciding to leave the CIC because the objectives of the CIC are in contradiction with their interpretation of the Scriptures.³⁷

16. In November 2022, the pastors of La Palma were told that they would have to leave the church by the morning.³⁸ They were told that if they did not vacate the premises by the morning, “there would be a ‘rapid response from brigade, police and ambulances.’”³⁹ The church had operated in a house for over thirty years and belonged to pastors who traveled to the United States.⁴⁰ Before they left, “they made a donation to the church in the presence of the national governing body in housing matters. The building later was declared public facility and then the government decreed that donation as illegal.”⁴¹

17. In September 2022, a Catholic priest, who was critical of the government and its increased persecution of religious groups, was expelled from the country.⁴² A nun who is part of the Sisters of Charity of Cardinal Sancha stated that, by using its dictatorial power, the government forces priests to leave the country because the government officials “fear the truth, they fear the face of good and get rid of what bothers them, [and that] is their only way of proceeding.”⁴³

18. In July 2022, a Christian youth leader at Calvario Baptist Church “was beaten in front of his wife and children by a police agent and arrested after posting a poem on Facebook which criticized government repression and asked for God’s intervention.”⁴⁴

19. In April 2022, a Christian pastor was arrested and “sentenced to eight years in prison for participating in peaceful protests against Cuba’s communist regime.”⁴⁵ Authorities also claimed that he did not belong to a “recognized church.”⁴⁶

20. On March 26, 2022, two State Security Officers went to the home of Pastor Mily Marín Marrero and informed her that if

she continued to meet with a group of women to teach them the Bible, she would be taken to court to face criminal charges. The two agents showed her documents indicating that there was an active criminal case against her and

threatened her with the removal of her three children and who would be placed in foster homes where “the government would be responsible for educating them and she would never be allowed to see them again.”⁴⁷

Thankfully, the pastor was able to flee Cuba with her children before being arrested.⁴⁸

21. In February 2022, a State Security Officer arrested and raided the home of the President of the Christian Reformed Church of Cuba.⁴⁹ Authorities proceeded to confiscate phones and computers that belonged to the church.⁵⁰ After being interrogated, the pastor was released, but he and his family were placed under house arrest.⁵¹

22. In November 2021, Yuri Perez Osorio was given seventy-two hours by police to remove a sign outside his house or otherwise he would be detained.⁵² On the sign was a Bible verse which read: “Woe to those who make unjust laws, to those who issue oppressive decrees, to deprive the poor of their rights and withhold justice from the oppressed of my people, making widows their prey and robbing the fatherless. Isaiah 10:1-2.”⁵³

23. On October 30, 2020, Cuban State Security destroyed an Assemblies of God Church as well as some homes that belonged to members of the church that were located on the property.⁵⁴ Police also arrested a pastor who was filming the demolition and streaming it online.⁵⁵

24. Between June and July 2020, officials from the Ministry of Justice, Physical Planning, the Provincial Communist Party, and State Security continuously harassed an evangelical church in Holguín.⁵⁶ During this time, the church received official visits and subpoenas on at least six occasions, “with the aim of threatening them and forcing them to permanently suspend their religious services.”⁵⁷ Then, on July 9, 2020, the “provincial director of Justice of Holguín, Nelson Flavio Plutín Santos, and the head of the Department of Associations, Ormani Rodríguez Tamayo, finally denied this congregation the right to meet on that property to practice their faith.”⁵⁸

25. In February 2020, a missionary traveling to Cuba had a box containing twenty Bibles confiscated by Customs officials.⁵⁹

26. In November 2019, Juan Bautista was arrested by police for preaching in public.⁶⁰ The evangelist had been harassed by police previously and was repeatedly told to “stop his public evangelism.”⁶¹ Following his arrest, “[p]olice prevented Juan’s pastor from attending his trial, in which the judge fined Juan the equivalent of \$880 dollars.”⁶²

27. In April 2019, Pastor Rigal Esposito and his wife were arrested after deciding to educate their children according to Christian values because they were “concerned about the country’s educational curriculum that promotes socialist ideas and atheistic concepts.” The wife was later released after spending eleven months in prison and the Pastor was released after serving his full two year sentence. While they were in prison, their children were sent to live with their grandparents who sent the children “to state schools for fear of being deprived of custody.”

28. In 2018, the Office of Religious Affairs denied the entry of 17,000 New Independent Version (NIV) Bibles and had the shipment sent back to Miami but allowed the King James Version (KJV) Bibles.⁶³ Missionaries say that importing NIV Bibles is critical because “many Cubans find it hard to understand the language of the KJV.”⁶⁴

Abortion

29. In Cuba, approximately forty-two percent of all pregnancies end in abortion, the highest abortion rate in the world.⁶⁵ In 2019, 109,716 babies were born in Cuba compared with 73,661 abortions being carried out that same year.⁶⁶ One factor that contributes to Cuba's high rate of abortion is the fact that "[m]any Cubans rely on abortion as a form of birth control."⁶⁷ In fact, "over the past 30 years more than a third of pregnancies have been terminated" in Cuba.⁶⁸

30. Cuba must realize that abortion is one of the gravest of all offenses against human life because it entails the deliberate killing of an innocent human being. In fact, since the 1994 Cairo Conference on Population and Development, U.N. Member States have had an affirmative commitment to "reduce the recourse to abortion"⁶⁹ and to "take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning*."⁷⁰ Additionally, the UDHR requires "recognition of the inherent dignity and of the equal and inalienable rights of *all* members of the human family is the foundation of freedom, justice and peace in the world," and provides that "[e]veryone has the right to life"⁷¹ Article 6 of the ICCPR likewise states that "[e]very human being has the inherent right to life. This right shall be protected by law."⁷²

31. In addition to the killing of a pre-born baby, abortion can also result in physical and psychological harm to the mother. It has been well documented that abortion can result in the perforation of the uterus or the laceration of the cervix.⁷³ Furthermore, abortion deprives women of the health benefits that come from continuing pregnancy, such as the elimination of the protective effect a full-term pregnancy has against breast cancer.⁷⁴ Abortion can also mask other dangerous symptoms, like an undiagnosed ectopic pregnancy.⁷⁵ In fact, in its 2022 "Abortion care guideline" the World Health Organization even acknowledges the complications of abortion.⁷⁶

32. These health complications are especially troubling given the fact there are reports of women being coerced into getting an abortion. It has been reported that abortion has been used as a tactic by the government in order to "artificially improve infant mortality by preventing marginally riskier births from occurring."⁷⁷ Further, "[p]hysicians often perform abortions without clear consent of the mother, raising serious issues of medical ethics, when ultrasound reveals fetal abnormalities because 'otherwise it might raise the infant mortality rate.'"⁷⁸

33. It is very troubling that doctors may pressure women into receiving abortion simply because a prenatal test shows the possibility of the baby being born with a fetal impairment. Human life does not deserve death simply because that baby may be born with physical abnormalities. Medical advances have allowed for babies born with physical abnormalities to live long and healthy lives. For example, in 1983, the average life expectancy of a person with Down syndrome was twenty-five years old.⁷⁹ Today, that life is sixty years and continues to increase.⁸⁰ The decision of whether a baby is allowed to live or be killed should not be based off of prenatal tests that have been proven to be unreliable.⁸¹

34. All of these reasons contribute to the fact as to why Cuba should take efforts to protect women and pre-born babies from the devastating effects of abortion.

Recommendations

35. Despite Cuba's guaranteeing religious freedom for all in its new Constitution, it is clear that the contrary interests of the communist regime come first. Because of this, Christians are targeted, harassed, and arrested because their religious views are seen as threat to communist rule. Religious organizations must be able to freely practice their religion publicly, regardless of their registration status. It is imperative that religious organizations can build and operate their place of worship without fear of harassment by police or even fear that one day their church might be destroyed. Additionally, Cuba must allow for religious texts to enter the country freely without government approval.

36. Cuba must take steps to protect the lives of pre-born babies and women. Cuba's practice of coercive abortions along with the fact the abortion is viewed as birth control have led to the loss of countless pre-born babies. Cuba must reform its abortion laws in order to protect life at all stages and provide women with the healthcare they deserve.

¹ Cuba, THE WORLD FACTBOOK, <https://www.cia.gov/the-world-factbook/countries/cuba/> (Mar. 07, 2023).

² *Id.*

³ *Id.*

⁴ Cuba, OPEN DOORS, <https://www.opendoors.org/en-US/persecution/countries/cuba/> (last visited Mar. 13, 2023).

⁵ *Id.*

⁶ *Universal Periodic Review – Cuba*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/cu-index> (last visited Mar. 15, 2023).

⁷ *Cuba Infographic 30th*, OHCHR, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session30/CU/CUBA_Infographic_30th.pdf (last visited Mar. 13, 2023).

⁸ OHCHR, UPR of Cuba (3rd Cycle – 30th Session): Thematic List of Recommendations, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session30/CU/MatriceRecommendationsCuba.docx> (last visited Mar. 13, 2023).

⁹ *Id.*

¹⁰ CONSTITUTION OF CUBA 2019, art. 15, https://www.constituteproject.org/constitution/Cuba_2019.pdf?lang=en.

¹¹ *Id.* art. 57.

¹² ACN INT'L, RELIGIOUS FREEDOM IN THE WORLD REPORT: CUBA 2 (2021), <https://acninternational.org/religiousfreedomreport/wp-content/uploads/2021/04/Cuba.pdf>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Ratification Status for Cuba*, OHCHR, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=44&Lang=EN (last visited Mar. 15, 2023).

¹⁶ International Covenant on Civil and Political Rights art. 18, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [hereinafter ICCPR].

¹⁷ *Id.*

¹⁸ CONSTITUTION OF CUBA 2019, art. 46.

¹⁹ *Id.* art. 86.

²⁰ *Id.* art. 43.

²¹ Kiana Anandra, *How Easy is it to Get an Abortion in Cuba?*, HAVANA TIMES (Aug. 2, 2022), <https://havanatimes.org/features/how-easy-is-it-to-get-an-abortion-in-cuba/>.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Ratification Status for Cuba*, *supra* note 15.

²⁶ Convention on the Rights of the Child art. 6, *adopted* Nov. 20, 1989, 1577 U.N.T.S. 3, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

²⁷ ICCPR art. 6, *supra* note 16.

²⁸ CONSTITUTION OF CUBA 2019, art. 15.

²⁹ *Cuba*, *supra* note 4.

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- ³⁰ The Voice of the Martyrs, *Cuba*, PERSECUTION, https://www.persecution.com/globalprayerguide/cuba/?_source_code=WHPB20C (last visited Mar. 07, 2023).
- ³¹ *Cuba*, *supra* note 4.
- ³² *Id.*
- ³³ *Religious Freedom Violations in Cuba Spike in One Year*, BAPTIST STANDARD (Feb. 10, 2023), <https://www.baptiststandard.com/news/world/religious-freedom-violations-in-cuba-spike-in-one-year/>.
- ³⁴ *Cuban Pentecostals Leaves State-Run Council of Churches*, EVANGELICAL FOCUS (Aug. 16, 2022), <https://evangelicalfocus.com/world/18234/pentecostal-church-leaves-the-state-run-council-of-churches-of-cuba>.
- ³⁵ *Id.*
- ³⁶ *Id.*
- ³⁷ *Id.*
- ³⁸ *Cuban Government Threatens to Evict Christian Church in Havana*, EVANGELICAL FOCUS (Nov. 15, 2022), <https://evangelicalfocus.com/world/19450/cuban-government-threatens-to-evict-christian-church-in-havana>.
- ³⁹ *Id.*
- ⁴⁰ *Id.*
- ⁴¹ *Id.*
- ⁴² *Cuban Regime Expels Priest David Pantaleon*, DIARIO LAS AMÉRICAS (Sep. 13, 2022), <https://www.diariolasamericas.com/america-latina/regimen-cuba-expulsa-sacerdote-david-pantaleon-n4256662>.
- ⁴³ *Id.*
- ⁴⁴ OPEN DOORS, CUBA: FULL COUNTRY DOSSIER 7 (Jan. 2023), <https://www.opendoors.org/persecution/reports/Full-Country-Dossier-Cuba-2023.pdf>.
- ⁴⁵ Ian M. Giatti, *Cuba Sentences Pastor to 8 Years in Prison for Participating in Peaceful Protest: Report*, THE CHRISTIAN POST (Apr. 20, 2022), <https://www.christianpost.com/news/cuba-sentences-pastor-to-8-years-in-prison.html>.
- ⁴⁶ *Id.*
- ⁴⁷ *Cuba's Referendum on 25 September is About Far More than Gay Marriage*, FORB IN FULL (Sep. 9, 2022), <https://forbinfull.org/2022/09/20/cubas-referendum-on-25-september-is-about-far-more-than-gay-marriage/>.
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- ⁴⁹ Alex Collett, *President of the Christian Reformed Church of Cuba was Threatened and Detained*, PREMIERE CHRISTIAN NEWS (Feb. 3, 2022), <https://premierchristian.news/en/news/article/president-of-the-christian-reformed-church-of-cuba-was-threatened-and-detained>.
- ⁵⁰ *Id.*
- ⁵¹ *Id.*
- ⁵² Kelly Valencia, *Cuban Christian Given 72hrs to Take Down a Bible Verse Sign Outside His House or Face Prison*, PREMIER CHRISTIAN NEWS (Aug. 4, 2021), <https://premierchristian.news/us/news/article/cuban-christian-given-72hrs-to-take-down-a-bible-verse-sign-outside-his-house-or-face-prison>.
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- ⁵⁴ *Cuban Pastor Arrested and Church Demolished*, CSW (Oct. 30, 2020), <https://www.csw.org.uk/2020/10/30/press/4860/article.htm>.
- ⁵⁵ *Id.*
- ⁵⁶ Yaisset Rodríguez Fernández, *Senior Cuban Government Officials Force the Closure of an Evangelical Church in Holguín*, DIARIO DE CUBA (Sep. 12, 2020), https://diariodecuba.com/derechos-humanos/1599896458_24973.html.
- ⁵⁷ *Id.*
- ⁵⁸ *Id.*
- ⁵⁹ *When My Family Left Cuba in 1980, Anyone Could Get Arrested and/or Go to Jail Simply for Saying "Jesus" in a Public Place . . .*, HEALING MUSIC, <https://healingmusicinc.org/cuba/> (last visited Mar. 15, 2023).
- ⁶⁰ *CUBA: Evangelist Arrested for Public Preaching*, VOICE OF THE MARTYRS (Nov. 21, 2019), <https://vom.com.au/cuba-evangelist-arrested-for-public-preaching/>.
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- ⁶² *Id.*
- ⁶³ Cara Bentley, *Bible Publisher Complains After Cuba Returns NIV Bibles*, PREMIERE CHRISTIAN NEWS (Apr. 3, 2018), <https://premierchristian.news/en/news/article/bible-publisher-complains-after-cuba-returns-niv-bibles>.
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- ⁶⁵ *Cuba World Ranking #1*, PASSION LIFE, <https://www.passionlife.org/cuba/> (last visited Mar. 1, 2023).
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⁶⁹ International Conference on Population and Development, *Report of the International Conference on Population and Development*, ¶ 8.25, U.N. Doc. A/CONF/F.171/13/Rev.1, https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/icpd_en.pdf.

⁷⁰ *Id.* ¶ 7.24.

⁷¹ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, pmbl., art. 3 (Dec. 10, 1948) (emphasis added).

⁷² ICCPR art. 6, *supra* note 16.

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⁷⁴ See Justin D. Heminger, *Big Abortion: What the Antiabortion Movement Can Learn from Big Tobacco*, 54 CATH. U.L. REV. 1273, 1288-89, 1290 n.119 (2005).

⁷⁵ See generally *Physical Effects of Abortion: Fact Sheets, News, Articles, Links to Published Studies and More*, THE UNCHOICE, www.theunchoice.com/physical.htm (last visited Feb. 22, 2023) (listing sequelae and referencing sources).

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⁷⁷ Gilbert Berdine et al, *Cuban Infant Mortality and Longevity: Health Care or Repression?* HEALTH POLICY AND PLANNING (Jun. 8, 2018), <https://academic.oup.com/heapol/article/33/6/755/5035051>.

⁷⁸ *Id.*

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⁸⁰ *Id.*

⁸¹ Dashiell Young-Saver, *The Misleading Math of Prenatal Tests*, NEW YORK TIMES (Feb. 10, 2022), <https://www.nytimes.com/2022/02/10/learning/lesson-plans/the-misleading-math-of-prenatal-tests.html>.